

This letter concerns nexus for collection of Illinois Use Tax. See 86 Ill. Adm. Code 150.201(i) and 150.801. (This is a GIL.)

January 26, 2004

Dear Xxxxx:

This letter is in response to your letter dated September 17, 2003, in which you request information. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at [www.ILTAX.com](http://www.ILTAX.com) to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

We are requesting information regarding the point at which a STATE-based entity is required to register with your state to:

- Collect and remit sales tax from customers
- File a corporate income tax return with your state
- Report wages to your state and withhold income taxes for those employees who work in your state a limited number of days each year

The entity provides services for a fee to businesses. It will have less than ten clients in your state and will not have an office in your state. It does not engage in any type of broad solicitations within your state. Employees of the entity will travel to and work in your state for a total of approximately ten days per year. While in your state, they will provide services to their clients which will be principally related to review and approval of ideas and sample products which were prepared in STATE. The majority of the time spent working on client matters will be done in STATE. Any resulting taxable products will be shipped into your state to clients' locations via non-related companies such as UPS and FedEx.

In the above example, is the entity required to register with your state and collect the above taxes?

In the above example, if everything is the same except that no one travels to your state, is the entity required to register with your state and collect the above taxes?

We appreciate your review of this request and look forward to your response.

**DEPARTMENT'S RESPONSE:**

We regret that we cannot provide you with a specific answer in the context of a General Information Letter. Please see Sections 150.201(i) and 150.801 of the Department's administrative rules regarding Use Tax. 86 Ill. Adm. Code 150.201(i) and 150.801. Please also see the United States Supreme Court's decision in Quill Corp. v. North Dakota, 112 S.Ct. 1904 (1992) regarding sales tax nexus.

I hope this information is helpful. If you require additional information, please visit our website at [www.ILTAX.com](http://www.ILTAX.com) or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Very truly yours,

Terry D. Charlton  
Associate Counsel

TDC:msk